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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/809,483	03/15/2001	Kurt R. Linberg	P-8945	5644
27581	7590	08/01/2006	EXAMINER	
MEDTRONIC, INC. 710 MEDTRONIC PARK MINNEAPOLIS, MN 55432-9924			NAJARIAN, LENA	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/809,483

**Applicant(s)**

LINBERG ET AL.

**Examiner**

Lena Najarian

**Art Unit**

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 22-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Notice to Applicant***

1. This communication is in response to the amendment filed 6/29/06. Claims 22-29 remain pending. Claim 22 has been amended.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 22-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elkind (US 2003/0158754 A1) in view of Linder et al. (US 6,681,003 B2), in view of Segal et al. (US 2001/0041991 A1), and further in view of Ilsen et al. (US 6,757,898 B1).

(A) Referring to claim 22, Elkind discloses a data communications server system, comprising (see abstract of Elkind):

an information network (abstract of Elkind);

means for logging into the information network (para. 12 of Elkind);

a communications portal resident on a server and accessed over an information network to present information associated with a patient, comprising (Fig. 3 and Fig. 4 of Elkind):

means for allowing a user to log-in to the communications portal (para. 12 of Elkind);

means for making a user verification (para. 12 of Elkind);

means for automatically presenting a web page (Fig. 7 of Elkind);

means for accessing a patient medical records database over the information network (para. 2 of Elkind); and

means for integrating accessible databases through user selectable links (Fig. 7 of Elkind).

Elkind discloses data relating to medical devices, such as pacemakers or other implants (see para. 44 of Elkind). However, Elkind does not expressly disclose an individual implantable medical device patient and an implantable medical device database.

Linder discloses an individual implantable medical device patient and an implantable medical device database (see col. 9, lines 33-41 and col. 3, lines 5-13 of Linder).

Elkind and Linder do not expressly disclose a patient lab records database.

Segal discloses a patient lab records database (para. 112 and Fig. 1 of Segal).

Elkind, Linder, and Segal do not expressly disclose that the web page is customized to the individual implantable medical device patient that includes a display of information relevant to the implantable medical device implanted in the patient.

Ilse discloses that the web page is customized to the patient and includes a display of information relevant to the patient (col. 33, lines 20-24 of Ilse).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Linder, Segal, and Ilsen within Elkind. The motivation for doing so would have been to monitor and upgrade the performance of the device (col. 3, lines 5-13 of Linder), to track results of tests and procedures (para. 112 of Segal), and to provide a fully automated mechanism for generating a personalized area (col. 4, lines 41-43 of Ilsen).

(B) Claims 23-29 have not been amended and are rejected for the same reasons given in the previous Office Action, and incorporated herein.

### ***Response to Arguments***

4. Applicant's arguments with respect to claim 22 have been considered but are moot in view of the new ground(s) of rejection.

5. Applicant's arguments filed 6/29/06 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 6/29/06.

(1) Applicant argues at page 5 that Ilsen does not disclose a "customized" web page and that the abstract merely mentions that the system generates a personalized area (patient page) for each user.

(2) Applicant argues at pages 5-6 that Linder et al. does not concern an implantable medical device and that there is no similarity in the objections of Elkind and Linder that would promote even attempting to combine the features of the two references.

(A) As per the first argument, the Examiner fails to understand the distinction between a patient being able to view his/her *customized* content over a secure Internet connection (see col. 33, lines 20-24 of Ilsen) disclosed by Ilsen and the "customized" web page claimed by Applicant.

(B) As per the second argument, the Examiner respectfully disagrees that Linder et al. does not concern an implantable medical device. At lines 2-6 of Linder's abstract, it is disclosed that "a medical device, such as a portable or implantable medical device, collects patient and operational information...." Also note col. 9, lines 33-41 of Linder.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the Examiner cited motivations to combine directly from the references.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches an online system and method for providing composite entertainment and health information (5,951,300) and a

method, apparatus and system for providing targeted information in relation to laboratory and other medical services (US 2002/0007285 A1).

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is 571-272-7072. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ln  
In  
7-21-06

  
JOSEPH THOMAS  
SUPERVISORY PATENT EXAMINER